HON'BLE SRI JUSTSICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 25583 of 2007

03.12.2007

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Between:

Katta Maremma & another

… Petitioners

AND

The District Collector,
Krishna District at Machilipatnam
& others

… Respondents

Counsel for the petitioners : Sri S. Appadhara Reddy

Counsel for the respondents : Assistant Government Pleader
for Land Acquisition

O R D E R:

This writ petition is filed for a writ of mandamus to set aside award dated 10.01.2007 passed by respondent No.3 on the ground that the same is illegal, arbitrary and in violation of Articles 21 and 300-A of the Constitution of India.

The petitioners claim to be the owners of certain lands in R.S. Nos. 80/1, 80/2, 80/4, 81/1, 81/2 and 79/1 situated at Chinapandraka Village, Kruthivennu Mandal, Krishna District. On an earlier occasion, the petitioners filed Writ Petition No. 25632 of 2006, wherein they have questioned notices issued under Sections 9(3) and 10 of the Land Acquisition Act, 1894 (for short, 'the Act'). This Court disposed of the

said writ petition by order dated 08.12.2006 with the direction to the respondents to consider the petitioners' objections dated 20.09.2006 sent to the notice before proceeding further. Thereafter, the petitioners submitted their objections and representation dated 01.02.2007 to respondent No.2 giving their consent for passing award by fixing the market value at Rs.2,50,000/- per acre. Respondent No.2 accordingly endorsed to respondent No.3 on the said representation.

In their affidavit, the petitioners stated that respondent No.3, ignoring the orders of respondent No.2, passed award for Rs. 10,88,144/- and sent demand draft for the amount to the Court of Senior Civil Judge, Machilipatnam without their knowledge and that the validity period of the said demand draft also expired on 24.07.2007.

Sri S. Appadhara Reddy, learned counsel for the petitioners submitted that the action of respondent No.3 in fixing the market value of the land at Rs.1,14,000/- per acre is illegal. He submitted that though the petitioners and their mother gave consent letters for passing award by fixing the market value at Rs.2,50,000/- per acre, respondent No.3 ignored the said request and passed award under Section 11(1) of the Act. The learned counsel relied upon a judgment of this Court in **Vittal Reddy v. the Principal Secretary, I & CAD Department, Hyderabad**[1], in support of his contention that the action of respondent No.3 is illegal.

I have considered the submissions of the learned counsel for the petitioners and I am not inclined to accept the same. A perusal of the award in question shows that respondent No.3 had considered the data relating to the previous sale transactions in the area and passed the award on merits by fixing the market value at Rs.1,14,000/- per acre. Though the petitioners requested respondent No.3 to pass a

consent award, the latter passed the award on merits which is traceable to under Section 11(1) of the Act. The petitioners cannot compel respondent No.3 to pass an award under Section 11(2) of the Act at the rates as demanded by them unless the Collector is satisfied that the market value which the petitioners are requesting to be fixed represents the true market value of the property. If the petitioners are dissatisfied with the quantum of compensation fixed by respondent No.3 under Section 11(1), they are free to seek reference of the dispute to civil Court under Section 18 of the Act.

In the proceedings under Article 226 of the Constitution of India, it is not possible for this Court to determine the question whether the market value fixed by respondent No.3 represents the true and correct market value of the acquired lands. Since the statute provides an efficacious remedy for the owners of the land who are aggrieved by the fixation of the market value by the Land Acquisition Officer, it is not permissible for the petitioners to invoke the jurisdiction of this Court under Article 226 of the Constitution of India to question the inadequacy of the compensation fixed by the Land Acquisition Officer. The judgment cited by the learned counsel for the petitioners in **Vittal Reddy v. the Principal Secretary, I & CAD Department, Hyderabad** (supra), in my opinion, has no application to the facts of the present case.

For the aforementioned reasons, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No. 33327 of 2007 filed by the petitioners for interim relief is also dismissed.

C.V.NAGARJUNA REDDY, J

03.12.2007

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[1] 2004(2) ALD 540